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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR A	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/607,069	06/29/2000	Jie Cheng	200-0382	7285
28395 7.	590 10/03/2002	/		
BROOKS & KUSHMAN P.C./FGTI 1000 TOWN CENTER 22ND FLOOR SOUTHFIELD, MI 48075		I	EXAM	INER
		29/2000 Jie Cheng 200-0382 7285 10/03/2002 AN P.C./FGTI EXAMINER FISHER, MICHAEL J	FISHER, MICHAEL J	
			ART UNIT	PAPER NUMBER
			3629	
	DATE MAILED: 10/03/2002			

Please find below and/or attached an Office communication concerning this application or proceeding.

		Application No.	Applicant(s)	$\overline{}$		
·• 4		09/607,069	CHENG ET AL.	6		
	Office Action Summary	Examiner	Art Unit	- / \/		
		Michael J Fisher	3629			
	The MAILING DATE of this communication ap	ppears on the cover sheet with the c	orrespondence ad	ldress		
Period fo	, •	·	0) 55011			
THE N - Exter after - If the - If NO - Failur - Any r earne	DRTENED STATUTORY PERIOD FOR REP MAILING DATE OF THIS COMMUNICATION usions of time may be available under the provisions of 37 CFR 1 SIX (6) MONTHS from the mailing date of this communication. period for reply specified above is less than thirty (30) days, a re period for reply is specified above, the maximum statutory period re to reply within the set or extended period for reply will, by statu- eply received by the Office later than three months after the mailing d patent term adjustment. See 37 CFR 1.704(b).	136(a). In no event, however, may a reply be timply within the statutory minimum of thirty (30) days to will apply and will expire SIX (6) MONTHS from te, cause the application to become ABANDONE.	nely filed s will be considered timel the mailing date of this c D (35 U.S.C. § 133).	y. ommunication.		
Status						
1)[Responsive to communication(s) filed on					
2a) <u></u> □	, _	his action is non-final.				
3)□	Since this application is in condition for allow			e merits is		
closed in accordance with the practice under <i>Ex parte Quayle</i> , 1935 C.D. 11, 453 O.G. 213. Disposition of Claims						
4) Claim(s) 1-22 is/are pending in the application.						
4a) Of the above claim(s) is/are withdrawn from consideration.						
5) Claim(s) is/are allowed.						
6)⊠	Claim(s) <u>1-22</u> is/are rejected.					
7)	Claim(s) is/are objected to.					
8)□	Claim(s) are subject to restriction and	or election requirement.				
Applicati	on Papers					
,	The specification is objected to by the Examin					
10) 🔲 -	The drawing(s) filed on is/are: a)□ acc					
	Applicant may not request that any objection to t					
11) 🔲 -	The proposed drawing correction filed on		oved by the Examin	er.		
40>□:	If approved, corrected drawings are required in r					
•	The oath or declaration is objected to by the E	:xaminer.				
Priority under 35 U.S.C. §§ 119 and 120						
13) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).						
a) All b) Some * c) None of:						
	1. Certified copies of the priority documents have been received.					
2. Certified copies of the priority documents have been received in Application No						
3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)). * See the attached detailed Office action for a list of the certified copies not received.						
14) 🗌 <i>A</i>	14) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).					
a) ☐ The translation of the foreign language provisional application has been received. 15)☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.						
Attachmen	t(s)					
2) Notic	e of References Cited (PTO-892) se of Draftsperson's Patent Drawing Review (PTO-948) mation Disclosure Statement(s) (PTO-1449) Paper No(s)	5) Notice of Informal	y (PTO-413) Paper No Patent Application (P1			

Application/Control Number: 09/607,069

Art Unit: 3629

DETAILED ACTION

Claim Rejections - 35 USC § 101

35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

Claims 1-22 are rejected under 35 U.S.C. 101 because the disclosed invention is inoperative and therefore lacks utility. The claims as written are merely for a thought process and as such are not patentable. Thought processes are not patentable.

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claim 1 provides for the use of determining a used vehicle market value error, but, since the claim does not set forth any steps involved in the method/process, it is unclear what method/process applicant is intending to encompass. A claim is indefinite where it merely recites a use without any active, positive steps delimiting how this use is actually practiced.

Claims 1 is rejected under 35 U.S.C. 101 because the claimed recitation of a use, without setting forth any steps involved in the process, results in an improper definition of a process, i.e., results in a claim which is not a proper process claim under 35 U.S.C. 101. See for example *Ex parte Dunki*, 153 USPQ 678 (Bd.App. 1967) and *Clinical Products, Ltd.* v. *Brenner*, 255 F. Supp. 131, 149 USPQ 475 (D.D.C. 1966).

Application/Control Number: 09/607,069

Art Unit: 3629

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

The factual inquiries set forth in *Graham* v. *John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

- 1. Determining the scope and contents of the prior art.
- 2. Ascertaining the differences between the prior art and the claims at issue.
- 3. Resolving the level of ordinary skill in the pertinent art.
- 4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

Claims 1-22 are rejected under 35 U.S.C. 103(a) as being unpatentable over N.A.D.A. web page from 11/1999. (NADA)

NADA discloses a method for determining a vehicle's price which includes checking historical values for cars (paragraph 2 on page 1) and using this to generate values for autos. While they don't specifically mention adjusting for error, this would be inherent. They are regarded as one of the best sources for automobile prices because they have a low error. They further compare comparable vehicles for their prices and adjust the prices for other vehicles, they have a price for average and then list prices for clean, rough and further list a wholesale price. These values would be distance weighted from the average price.

Application/Control Number: 09/607,069

Art Unit: 3629

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. US PAT 5,978,776 to Serretti et al., Serretti discloses a method of comparing vehicular data via data exchange.

Note: Kelley Blue Book further provides such a system and has for over 75 years.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Michael J Fisher whose telephone number is 703-306-5993. The examiner can normally be reached on Mon.-Fri. 7:30am-5:00pm alt Fri. off.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-2168.

September 24, 2002

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Page 4

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For 65 years, N.A.D.A. has been the world's largest publisher of appraisal guides for used vehicle values. Business professionals across the country use N.A.D.A. values day in and day out. Every month over 600,000 guides are sent to our customers. That's 7 million a year! At that rate, you know the numbers speak for themselves.

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